

1  
2  
3  
4  
5  
6  
7  
8 UNITED STATES DISTRICT COURT  
9 DISTRICT OF NEVADA

10 STEVEN T. MARVIK,

11 Plaintiff,

12 vs.

13  
14 DR. NEIGHBORS, et al.,

15 Defendants.  
16

Case No. 3:11-cv-00655-ECR-WGC

ORDER

17 On October 13, 2011, the Magistrate Judge filed a Report and  
18 Recommendation (#6) recommending that Plaintiff's motion to proceed in forma  
19 pauperis (#3) be granted; that Plaintiff's Eighth Amendment deliberate  
20 indifference to medical needs claim proceed as to Defendants Neighbors,  
21 Durante, Pierson, and Oksonhald; that all other federal claims be denied; that  
22 Plaintiff's assertion of criminal claims for abuse of state power, fraud, perjury  
23 and conspiracy be dismissed with prejudice; and that Plaintiff's state law claims  
24 for conspiracy, medical malpractice, fraudulent misrepresentation be dismissed  
25 without prejudice.

26 No objection was timely filed by Plaintiff.

27 **IT IS, THEREFORE, ORDERED** that the Magistrate Judge's Report  
28 and Recommendation (#6) is well taken and is **APPROVED** and **ADOPTED**.

**IT IS ORDERED** that Plaintiff's request (#3) to proceed in forma

1 pauperis is **GRANTED**. Plaintiff's second motion (#7) to proceed in forma  
2 pauperis is denied as moot.

3 **IT IS THEREFORE ORDERED** that the Clerk of the Court shall file the  
4 Complaint (#1-1).


5 **IT IS FURTHER ORDERED** that the claims for abuse of state power  
6 and criminal claims of fraud perjury, and conspiracy are dismissed with  
7 prejudice and shall not be included in the amended complaint. Plaintiff's state  
8 law claims for civil conspiracy, medical malpractice and fraudulent  
9 misrepresentation are dismissed without prejudice, and Plaintiff may include  
10 these claims in the amended complaint.

11 **IT IS FURTHER ORDERED** that Plaintiff's motion (#9) to file an  
12 amended complaint is **GRANTED**. Plaintiff shall have 30 days from the date of  
13 this order in which to file his amended complaint in accordance with the  
14 guidance provided herein and by the Report and Recommendation (#6). **IT IS**  
15 **ORDERED** that, if specifically alleged in the amended complaint, the Eighth  
16 Amendment deliberate indifference to medical needs claim shall proceed as to  
17 Defendants Neighbors, Durante, Pierson, and Oksonhald.

18 **IT IS ORDERED** that Plaintiff's motion to exceed the page limit (#8) for  
19 the amended complaint is **GRANTED** on the following basis. The amended  
20 complaint shall not exceed 30 pages.

21 **IT IS ORDERED** that the Clerk shall send a blank section 1983 civil  
22 rights complaint form with instructions along with one copy of the original  
23 complaint to Plaintiff.

24 Dated this 5<sup>th</sup> day of January 2012.

25  
26   
27 EDWARD C. REED, JR.  
28 United States District Judge